IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION.

CRIMINAL REVISION APPLICATION NO.248 OF 2003

Mr.Shashikant Jinappa Kadam, .. Petitioner

Vs

The State of Maharashtra, .. Respondent

Mr Vinod Katkar, for the petitioner.

Mr R.Y.Mirza, APP for the respondent.

CORAM : D.B.BHOSALE,J.

DATE : 2nd September, 2004.

ORAL ORDER:

1. Heard Mr.Katkar, learned counsel for the petitioner and Mr.Mirza, learned A.P.P for the respondent.

2. Rule. Rule made returnable forthwith. Mr.Mirza, learned APP, waives service for the respondent. By consent, Rule is heard finally.

3. This revision is directed against the order dated 30.1.2003 rendered by the learned Addl.Sessions Judge, Gr.Bombay, in Criminal Appeal No.138 of 2002, by which the appeal was partly allowed and the order of conviction on both the counts passed by the trial Court was maintained. The sentence of imprisonment of two years for offence under section 304 (A) of IPC was

reduced to simple imprisonment for six months and fine of Rs.2000/-. The sentence on the other count under section 279 of IPC was confirmed. The trial Court had convicted the petitioner under section 304 (A) of IPC and sentenced him to suffer SI for two years and to pay fine of Rs.2000/- by order dated 17.8.2002.

4. Mr. Katkar, learned counsel for the petitioner, at the outset, fairly stated that he is not pressing this revision application on merits and he has instructions to press this revision only on the point of sentence. He further submitted that the occurrence in the instant case took place on 5.12.95. It was a fatal accident. About nine years have elapsed after the alleged occurrence. The petitioner has undergone imprisonment for about two months. He has paid fine as per the impugned order. The petitioner has a family, consisting of wife and children and keeping that in view and the agony he has suffered for all these years, Mr Katkar, submitted that the sentence be reduced to undergone. Mr Mirza, learned APP, did not seriously oppose the submission made by Mr Katkar, learned counsel for the petitioner.

5. It appears that the petitioner had pleaded guilty to the charge before the learned Magistrate. Keeping this in view and considering the submissions of the learned

counsel for the petitioner and overall facts and circumstances of the case, this revision application is partly allowed. The order of conviction is maintained. The sentence of imprisonment for offence under section 304(A) of IPC stands reduced to undergone. The petitioner be set at liberty, if not required in any other case.

(D.B.BHOSALE, J.)